



COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR

MATTHEW G. BEVIN
GOVERNOR

700 CAPITOL AVENUE
SUITE 100
FRANKFORT, KY 40601
(502) 564-2611
FAX: (502) 564-2517

January 22, 2019

Via U.S. Mail

Matt Chapman
MuckRock News
DEPT MR 50705
411A Highland Avenue
Somerville, Massachusetts 02144-2516

Re: Your open records request

Dear Mr. Chapman:

The Kentucky Governor's Office received your open records request dated January 22, 2019 for certain information from "all non-personal emails [sic] accounts in use by the [G]overnor and [his] staff." You requested a date range of between March 5, 2018 and March 9, 2018. By "non-personal emails [sic] accounts," I'm interpreting you to mean an employee's state-issued email account.

Your request is denied. You have impermissibly requested information as opposed to records. The Open Records Act is not directed at the former, but instead the latter. 18-ORD-056 ("A public agency is not required to honor a request for information or to create a record in response to an open records request."). Although your request nominally asks for the following "records," you then list the "following information" that you actually want—"From address," "To address," "bcc addresses," "cc addresses," "Time," and "Date." Taken as a whole, it is clear that, at base, your request is one for information, not for records. For that reason, your request is denied. *See id.*

To the extent your request can be interpreted to ask for records with the information you want, your request is denied. For one thing, we do not have any records with only the requested information. *See id.* ("A public agency cannot produce nonexistent records for inspection or copying . . ."). Moreover, to the extent your request asks the Governor's Office to pull every email from every employee over a five-day period in 2018 and then redact everything except the "following information" you want, your request is denied. That would be an enormous undertaking that would impose an

"unreasonable burden" on the Governor's Office. *See* KRS 61.872(6). It also is a back-door attempt to get information that you are not otherwise entitled to under the Open Records Act. That is not the purpose of the redaction provision in the Open Records Act. *See* KRS 61.878(4). The Governor's Office also notes that many, perhaps most, of the redacted emails would be protected from disclosure for one reason or another under the Open Records Act—for example, as attorney-client communications or preliminary correspondence.

Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, reading "Matthew F. Kuhn". The signature is written in a cursive style with a large, stylized "M" and "K".

Matthew F. Kuhn
Deputy General Counsel